

UNITED STATES DISTRICT COURT
DISTRICT OF MAINE

SAMUEL CAISON,)
Petitioner)
v.) 1:19-CR-00152-LEW-1
United States of America,) 1:22-CV-00100-LEW
Respondent)

**ORDER AFFIRMING RECOMMENDED DECISION
OF THE MAGISTRATE JUDGE**

On September 27, 2022, the United States Magistrate Judge filed with the court, with copies to Petitioner and counsel, his Recommended Decision on Petitioner's Motion to Vacate, Set Aside or Correct Sentence. The time within which to file objections expired on October 11, 2022, and no objection has been filed. The Magistrate Judge notified the parties that failure to object would waive their right to *de novo* review and appeal.

It is therefore ORDERED that the Recommended Decision of the Magistrate Judge is AFFIRMED and ADOPTED. Petitioner's motion for habeas relief under 28 U.S.C. § 2255 is dismissed without prejudice because Petitioner prematurely seeks habeas relief while his direct appeal remains pending before the First Circuit. Given this procedural flaw, the Court further denies a certificate of appealability pursuant to Rule 11 of the Rules Governing Section 2255 Cases, because the petition, being premature, does not make a

substantial showing of the denial of a constitutional right within the meaning of 28 U.S.C. §2253(c)(2).

SO ORDERED.

Dated this 17th day of November, 2022.

/s/ Lance E. Walker
UNITED STATES DISTRICT JUDGE